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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :  
VOLKER BENZ ET AL. : GROUP ART UNIT: 1774  
SERIAL NO: 09/854,604 :  
FILED: MAY 15, 2001 : EXAMINER: FERGUSON, L.  
FOR: PLASTIC COMPOSITES MADE  
FROM INCOMPATIBLE PLASTICS

APPEAL BRIEF

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VA 22313

SIR:

This is an appeal of the Final Rejection dated August 6, 2003 of Claim 9. A Notice of Appeal is **filed herewith**.

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is ROEHM GMBH & CO. KG having an address at D-64275, Darmstadt, Germany.

II. RELATED APPEALS AND INTERFERENCES

Appellants, Appellants' legal representative and the assignee are aware of no appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

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### III. STATUS OF THE CLAIMS

Claim 9 stands rejected and is herein appealed. Claims 10-21, the remaining claims in the application, are allowable.

### IV. STATUS OF THE AMENDMENTS

No amendment under 37 CFR 1.116 has been filed. A Request for Reconsideration After Final, however, was filed. In an Advisory Action entered November 21, 2003, the Examiner withdrew all rejections except the one now appealed from.

### V. SUMMARY OF THE INVENTION

As recited in Claim 9 (an original claim), the invention is an extrusion die, comprising a pair of parallel exit slits and a plurality of exit ports located between said pair of parallel exit slits and evenly spaced along a line parallel to said pair of parallel exit slits. Such a die is shown in Figure 3, and as described in the specification at page 10, line 12ff.

### VI. ISSUES

Whether Claim 9 is anticipated under 35 U.S.C. §102(b) by U.S. 5,342,189 (Inamura et al)?

### VII. GROUPING OF THE CLAIMS

There is no grouping; only one claim is on appeal.

### VIII. ARGUMENT

Claim 9 stands rejected under 35 U.S.C. §102(b) as anticipated by Inamura et al. That rejection is untenable and should not be sustained.

Inamura et al discloses an insert type extrusion die for making small parts for use in electrical, automotive and other industries, and particularly illustrates a die for making multi-cavity flat aluminum tubes. Inamura et al's insert type extrusion die is composed of a male member and a female member. In the device of Inamura et al, as shown in Figures 8-10 therein, a comb-shaped part 22 of the male member is inserted into the die cavity 26a of 26 of the female member and in cooperation therewith defines the cross-sectional shape of the multi-cavity flat tube extrusion (column 6, lines 37-45). Contrary to the finding by the Examiner, Inamura et al's insert type extrusion die does **not** comprise a pair of parallel exit slits and a plurality of exit ports located between the pair of parallel exit slits and evenly spaced along the line parallel to the pair of parallel exit slits. Figure 2 of Inamura et al does **not** depict parallel exit slits and a plurality of exit ports in the relationship required by the present claims.

In the Advisory Action, the Examiner finds that Figure 2 of Inamura et al depicts parallel exit slits and a plurality of exit ports "similar to that of instant figures 1 and 2 of the instant application."

In reply, Inamura et al does not disclose or suggest parallel exit slits and a plurality of exit ports, for reasons discussed above. Moreover, Figures 1 and 2 herein are of a multilayer plastic composite article that can be made using the claimed extrusion die. The Examiner's comparison of Inamura et al's extrusion die to a **product obtainable from the** presently-claimed extrusion die demonstrates a failure to fully appreciate the present invention.

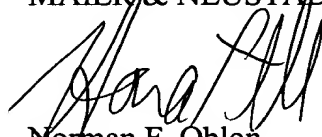
For all the above reasons, it is respectfully requested that this rejection be REVERSED.

IX. CONCLUSION

For the above reasons, it is respectfully requested that the rejection still pending in the Final Office Action be REVERSED.

Respectfully submitted,

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## APPENDIX

### CLAIMS ON APPEAL

9. An extrusion die, comprising a pair of parallel exit slits and a plurality of exit ports located between said pair of parallel exit slits and evenly spaced along a line parallel to said pair of parallel exit slits.